



29 MAR, 2022

Spotlight shines back on watchdog

The Australian, Australia

Page 1 of 2

PROBE INTO COMPLAINT HANDLING

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EXCLUSIVE**KYLAR LOUSSIKIAN
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The Commonwealth Ombudsman is investigating how the nation's public service authority handled internal complaints of alleged wrongdoing by senior officials at the Federal Court.

The Australian in early February revealed that at least two untried and underqualified junior lawyers were given high-paid, senior positions ahead of better qualified candidates. The court's acting deputy principal registrar, Scott Tredwell, had separately warned the organisation's chief executive that special deals were being used to get around a cap on senior appointments.

The Australian Public Service Commission, which had previously been alerted to the issues, did not substantiate allegations of impropriety in the process that resulted in the appointment of eight registrars under the special arrangements.

The review, undertaken by acting assistant commissioner Kate McMullen, did find one jun-

ior lawyer "did not hold an essential qualification for the position and no reasonable efforts were made ... to determine whether she was eligible to be admitted to practice".

However, The Australian has confirmed that the Commonwealth Ombudsman has begun an investigation into Ms McMullen's review and escalated it to the second most serious level in its powers—known as category 4.

Matters at this level, according to Ombudsman documents, include those where there is a reluctance by a government agency to acknowledge issues, one that may potentially be sensitive or involves the head of an agency.

"If our investigation has revealed evidence of serious misconduct, the approach should be escalated to category 4 at the earliest opportunity," the Ombudsman's work practice guide reads.

In an email obtained by The Australian, one senior figure at the Ombudsman writes: "I will consider whether it was reasonably open to (Ms McMullen) to make the findings and decisions she made, whether reasonable lines of enquiry were pursued,

and whether other reasonable requirements for good administration were met. I am taking the issues raised seriously," the note continues. "I expect this investigation may take some time."

That note, issued on March 21, came after the Ombudsman contacted the APSC in late December regarding the same issue to disclose it was conducting a preliminary investigation into the matter. "(Our officials) provided the requested documents to the Ombudsman on 14 January, 2022," the APSC email from acting assistant commissioner for integrity Giorgina Strangio reads.

"The Ombudsman advised that it will take some time to work through the documents and contact us again in mid-February."

The issue relates to a major reorganisation of the court's national registrars under Sia Lagos, now the chief executive.

The string of new appointments came under Ms Lagos and led to the sidelining of several long-time registrars. It created disquiet within the Federal Court, and a complaint to the APSC led to the extensive investigation.



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In some instances, the Federal Court’s bureaucrats had circumvented the cap on the number of staff by hiring them at lower levels and using special agreements to increase their pay – by up to \$50,000 – and their titles.

The Australian also reported that one long-serving judge was so incensed by the reorganisation plans that he took the unusual step of intervening – warning that it was becoming a “major issue”.

Federal Court judge Andrew Greenwood also alleged Ms Lagos and her predecessor, Warwick Soden, were “obfuscating”.

“First, Warwick’s advice that the APSC has a veto on appointment is wrong,” Justice Greenwood wrote in an internal memo.

“The true position is that neither Warwick nor Sia want to appoint (him). The so-called ‘veto’ is a red herring to prevent (him) being awarded the position.”

The ASPC’s brief investigation found only that “more clear and transparent communications ... may have been advisable to reduce the risk of misunderstandings”. Some correspondence obtained by The Australian, however, was not provided to Ms McMullen during her inquiries.

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COMMONWEALTH
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